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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

JOSEPH BOODAIE,

Plaintiff and Appellant,

v.

FARIBORZ LAHIJANI et al.,

Defendants and Respondents.

B287715

(Los Angeles County
Super. Ct. No. BC581096)

APPEAL from orders of the Superior Court of Los Angeles County. Elizabeth Allen White, Judge. Affirmed.

Joseph Boodaie, in pro. per., for Plaintiff and Appellant.

No appearance by Defendants and Respondents.

* * * * *

Plaintiff and appellant Joseph Boodaie filed a complaint, in propria persona, for breach of contract against defendants Fariborz Lahijani and Global Commercial Real Estate. Plaintiff alleged defendants failed to pay him an agreed-upon portion of their commission from the sale of real property, which plaintiff refers to as a “finder’s fee.” The case proceeded to a jury trial in January 2017. The special verdict form indicates the jury found plaintiff entered into a contract with Mr. Lahijani, but not with Global Commercial Real Estate. The jury also found that plaintiff had not performed, or substantially performed, all of the things required of him by the contract.

Judgment was entered in favor of defendants on February 16, 2018. Plaintiff appealed.

Plaintiff requests a new trial arguing the jury was confused about the nature of the finder’s fee he was owed. He bases this contention primarily on a question the jury sent out prior to reaching a verdict, which read: “can we award damage regardless of verdict[?]”

Plaintiff concedes in his brief there was no reporter’s transcript and that no settled statement was prepared. The appellate record consists only of one volume of a clerk’s transcript.

It is a well-established foundational premise that on appeal, “ ‘[a] judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error *must be affirmatively shown*. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.’ ” (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564, second italics added; accord, *Moreno v. City of*

King (2005) 127 Cal.App.4th 17, 30.) “Consequently, appellant has the burden of providing an adequate record. [Citations.] Failure to provide an adequate record on an issue requires that the issue be resolved against appellant. [Citation.] Without a record, either by transcript or settled statement, a reviewing court must make all presumptions in favor of the validity of the judgment.” (*Randall v. Mousseau* (2016) 2 Cal.App.5th 929, 935; *Ballard v. Uribe* (1986) 41 Cal.3d 564, 574-575; see also 9 Witkin, Cal. Procedure (5th ed. 2008) Appeal, § 628, p. 704; Cal. Rules of Court, rule 8.120.)

We are unable to fairly evaluate plaintiff’s contention in light of the wholly inadequate record and must therefore affirm. (*Aguilar v. Avis Rent A Car System, Inc.* (1999) 21 Cal.4th 121, 132 [rejecting the defendants’ claim based on failure to provide an adequate record].)

DISPOSITION

The judgment entered on February 16, 2018 in favor of Fariborz Lahijani and Global Commercial Real Estate is affirmed.

GRIMES, Acting P. J.

WE CONCUR:

STRATTON, J.

ADAMS, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.